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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,116	07/21/2003	Ray Blotteaux	TJK/400	6127

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EXAMINER

GRAHAM, MARK S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,116

Applicant(s)

BLOTTEAUX, RAY

Examiner

Mark S. Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-32 and 38-43 is/are pending in the application.
- 4a) Of the above claim(s) 14-22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-32 is/are allowed.
- 6) ☒ Claim(s) 38-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

The claims filed with the amendment of 6/10/05 contain subject matter not entitled to the original filing date of the application. Note for example the "non-structural" limitation of pending claim 14, and the claim of varied thickness between the wall and shell components in pending claims 14 and 17. Therefore the new application qualifies as a CIP application. Applicant is required to take all steps appropriate with regard to a CIP application to place the application in proper form.

Newly submitted claims 14-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The originally claimed embodiment was only directed towards that with inner and outer layers of equal thickness. Claims 14-22 are directed at an embodiment of differing wall thicknesses.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-22 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim 23 is objected to because the term "non-structural" was inadvertently left in the last line of the claim. Such should be replaced with --protective-- as was done in the balance of the claim.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conroy in view of Cabales et al. '932 (Cabales).

Conroy discloses the claimed device with the exception of the intermediate viscoelastic layer. (Any one of Conroy's inner layers may be considered the single inner layer with the outer layer adjacent to it the single outer layer.) However as disclosed by Cabales, Col. 7, first full paragraph it is known in the art to use such a construction. It would have been obvious to one of ordinary skill in the art to have used such a layer between Conroy's inner and outer layers for the reasons espoused by Cabales.

Concerning claim 40, Conroy in view of Cabales obviates the claimed device with the exception of the particularly claimed type of rubber. However, the examiner takes official notice that rubbers such as those claimed are commonly known. Such a rubber would obviously have been suitable for use as Cabales' rubber.

Regarding claims 41-43, Cabales does not disclose the exact thickness of his layer. However, absent a showing of unexpected results the particularly claimed thicknesses would have been obvious to the ordinarily skilled artisan depending on the strength and weight desired in the shaft.

In response to applicant's arguments, the claims do not require only a single inner layer or only a single outer layer. As note by the examiner in the previous action and above any one of Conroy's inner layers may be considered the single inner layer with the outer layer adjacent to it the single outer layer. The examiner has not suggested that Conroy teaches the viscoelastic layer. Cabales has been cited because it teaches this feature. Cabales has not been cited to teach a single inner or outer layer as Conroy teaches these features. As to applicant's argument that

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there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Cabales clearly teaches the efficacy of providing a viscoelastic layer between the composite layers to control vibration. Therefore applicant's argument that there is no suggestion for the combination of claim 38 is not persuasive.

Applicant's arguments filed 1/30/06 have been fully considered but they are not persuasive for the reasons explained above.

Claims 23-32 are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG
3/23/06

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Mark S. Graham
Primary Examiner